

REMARKS

Claims 2, 6, 7, and 16-17 are currently under examination; claims 4, 10-14 and 18 are withdrawn pursuant to a restriction requirement. Claims 1, 3, 5, 8, 9, and 15 are cancelled without prejudice. Favorable reconsideration in view of the amendments and remarks that follow is respectfully requested.

I. The Amendments

Claim 2 is amended to recite several 6mer peptide sequences. Specifically, claim 2 is amended to recite 6mer peptides identical to SEQ ID NOS. 1-9. The amendment is fully supported by the Specification, for example, page 4, ¶ [0009].

Claim 2 is also amended to recite a peptide of 20 amino acid residues or less. The amendment is fully supported by the Specification, for example, page 6, ¶ [0012].

II. Rejection of Claims 1-3, 5, 8, and 15-17 Under 35 U.S.C. § 112, First Paragraph

Claims 1-3, 5, 8, and 15-17 stand rejected under 35 U.S.C. § 112, first paragraph, for allegedly not complying with the written description requirement. In particular, the Examiner states that laminin binding site (LBS) is not descriptive for defining sufficient relevant identifying characteristics.

The written description requirement “requires a precise definition of the claimed subject matter sufficient to distinguish it from other materials.” *Regents of the Univ. of Cal. v. Eli Lilly Co.*, 119 F.3d 1559, 1568 (Fed. Cir. 1997). Specifically, the claimed material must be described in sufficient detail to demonstrate both possession of the claimed invention at the time of filing and to allow for one skilled in the art to “visualize or recognize the identity of the members of the genus” in structural terms. *Id.* “A description of a genus may be achieved by . . . recitation of a representative number of [species] . . . OR of recitation of structural features common to the members of the genus.” *Id.* at 1569 (emphasis added).

Independent claim 2 is amended to recite a peptide of 20 amino acid residues or less having six consecutive amino acids selected from one of nine recited 6mer sequences. Applicants' representative believes that the sequences now recited in claim 2 provide a "recitation of structural features common to the members of the genus" as stated in *Eli Lilly*. Further, a genus of peptides having 20 or fewer residues and one of a list of required 6mer sequences allows one skilled in the art to "visualize or recognize the identity of the members of the genus."

Therefore, it is respectfully requested that the rejection of claims 2 and 16-17 under 35 U.S.C. § 112, second paragraph, be withdrawn.

III. Rejection of Claims 1-3, 5, 6-7, 8-9, and 15-17 Under 35 U.S.C. § 102(b)

Claims 1-3, 5, 6-7, 8-9, and 15-17 stand rejected under 35 U.S.C. § 102(b) over Deber et al (WO 03/000277).

The Examiner states that Deber et al discloses a peptide that is a conservative variant of SEQ ID NO. 11. The sequence from Deber et al cited by the Examiner is as follows:

KKKKKKAAWAAWAAWAA

Deber et al.

First, none of the 6mer sequences recited in claim 2 appears in the sequence cited by the Examiner. Second, reference to conservative substitutions is deleted from claim 2. Therefore, the cited sequence from Deber et al is outside the scope of claim 2 and does not anticipated claim 2.

It is noted that the Application claims priority to JP 2003-369595 filed October 29, 2003 and that WO 03/00027 has a publication date of January 3, 2003. Since WO 03/00027 is published less than one year prior to the earliest priority date, WO 03/00027 does not appear to be citable under 35 U.S.C. § 102(b).

Therefore, it is respectfully requested that the rejection of claims 2, 6-7, and 16-17 under 35 U.S.C. § 102(b) be withdrawn.


Petition for Extension of Time

A request for a one-month extension of time is hereby made. Payment is made *via* the EFS filing system.

In the event any fees are due in connection with this document, the Commissioner is authorized to charge those fees to Deposit Account No. 50-1063.

Should the Examiner believe a telephone interview would be helpful to expedite favorable prosecution, the Examiner is invited to contact applicant's undersigned representative at the telephone number listed below.

Respectfully submitted,
TUROCY & WATSON, LLP



Gregory Turocy
Reg. No. 36,952

Key Tower-57TH Floor
127 Public Square
Cleveland, Ohio 44114
Telephone (216) 696-8730
Facsimile (216) 696-8731